UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VORTEX INDUSTRIES, INC.,

Plaintiff,

v.

EASTY-KLEEN PRESSURE SYSTEMS, LTD, a Canadian Company,

Defendant.

Case No.
Hon.

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Attorneys for Plaintiff

COMPLAINT

NOW COMES Vortex Industries, Inc., by and through its attorneys, to complain against Easy-Kleen Pressure Systems, Ltd, for patent infringement and unfair competition as set forth in the following:

Parties, Jurisdiction and Venue

1. Vortex Industries, Inc. (hereinafter "Vortex") is a corporation organized and existing under the laws of the State of Michigan with its principal place of business at 739 South Mill Street, Plymouth, Michigan 48170, within this judicial district.

2. Defendant Easy-Kleen Pressure Systems, LTD ("hereinafter Easy-Kleen"), on information and belief, is a Canadian corporation with its principal place of business located at 41 Earnhardt Road, Sussex Corner, N.B., E4E 6A1. On information and belief, Easy-Kleen also does business under the name "PowerJet Pressure Cleaning Systems."

3. This action arises in part under the patent laws of the United States, Title 35 USC, and this Court has subject matter jurisdiction pursuant to 28 USC §1331, §1338 and 15 USC §1121. The Court also has diversity jurisdiction, there being a diversity of citizenship between the parties and an amount in controversy in excess of $75,000.00, exclusive of interest and costs.

4. Personal jurisdiction over Easy-Kleen and PowerJet is vested in the United States District Court for the Eastern District of Michigan because, among other things, Easy-Kleen in its own identity and as PowerJet, has knowingly and purposely directed the sale of accused infringing products to all states in the United

States through advertising, offering for sale, and actually selling such products via websites accessible in this forum and throughout the United States, as well as marketing such products through dealers and distributors in the United States.

5. Venue is proper under 28 USC §1391(c)(3), Defendant being a foreign corporation.

General Allegations

6. Vortex Industries, Inc. is the owner of United States Patent No. 8,910,885, Exhibit A herewith, said patent is valid and subsisting. Vortex has, for many years, actively marketed and promoted the sale of power washer products embodying the invention of the ‘885 patent and has developed a reputation for quality and reliability.

7. Vortex has invested substantial capital and other resources promoting the sale of its patent-protected power washer products in this judicial district and elsewhere through the United States, and depends on the vitality of the ‘885 patent to protect it against piracy by competitors.

The Infringing Products

8. On information and belief, Defendant Easy-Kleen has manufactured in Canada and has imported into the United States and sold in the United States, portable high pressure cleaning system products that are covered by one or more claims of the ‘885 patent without authority or permission of Plaintiff Vortex, and

will continue to do so unless enjoined by this Court. Plaintiff Vortex has been damaged by such acts through lost sales and otherwise.

9. Plaintiff Vortex has, through counsel, made a careful and thorough study and has determined that products manufactured by Defendant and sold in the U.S. under the tradenames PowerJet and Easy-Kleen infringe at least claims 1-4 and 6-13 of the ‘885 patent. The infringing products are the Easy-Kleen model A5152E and others in its series, and the PowerJet models PJ215E and others in its series, and the PJ273GL and others in its series. Plaintiff reserves the right to amend this allegation after discovery.

First Claim for Relief

10. Vortex incorporates by reference as if fully set forth herein the content of paragraphs 1-9 of this Complaint.

11. Defendant Easy-Kleen has directly, indirectly, contributorily and/or by inducement infringed and will continue to infringe the ‘885 patent by importing into the United States and selling in the United States through various dealers the aforementioned PowerJet and Easy-Kleen products, all of which infringe the ‘885 patent in violation of 35 USC §271.

12. Defendant Easy-Kleen’s infringement of the ‘885 patent has caused, and will continue to cause monetary damage to Vortex and its reputation, the monetary damage arising in large part from lost sale revenues in an amount that can

only be determined through an accounting.

13. Defendant Easy-Kleen's infringement as alleged will continue to cause immediate and irreparable harm to Vortex for which Vortex has no adequate remedy in law unless this Court enjoins and restrains such infringement.

14. On information and belief, Defendant's infringement of the '885 patent has been willful and deliberate entitling Vortex to increased damages under 35 USC §284 and attorney's fees and costs under 35 USC §285.

Second Claim for Relief

15. Vortex incorporates by reference as if fully set forth herein the content of paragraphs 1-14 of this Complaint.

16. Defendant Easy-Kleen has unlawfully and blatantly by copying the appearance and design of Plaintiff's commercial identity for its PowerJet products, including the aesthetic qualities of its promotional literature as well as its product appearance, competed unfairly with Plaintiff by trading on Plaintiff's identity and reputation in such a way as to deceive customers and potential customers as to an association or affiliation between Plaintiff and Defendant in the source of power washers in violation of 15 USC §1125(a).

17. As a result of Defendant's acts of unfair competition, Plaintiff Vortex has been damaged in an amount that can only be determined through an accounting.

18. As a further result of Defendant Easy-Kleen's acts of unfair

competition, Plaintiff has lost sales and has been damaged in ways that cannot be adequately compensated by damages and can only be sufficiently redressed through the grant of injunctive relief.

Prayer for Relief

Based on the foregoing allegations, Plaintiff Vortex prays for the following relief:

1. A Judgment that Defendant Easy-Kleen in its own name and as PowerJet has infringed the ‘885 patent in violation of 35 USC §271.

2. A Judgment that Defendant Easy-Kleen has engaged in acts of unfair competition, in violation of 15 USC §425(a).

3. An Order preliminarily and permanently enjoining Defendant Easy-Kleen, its officers, directors, agents, servants, employees, affiliates, dealers, attorneys and all others acting in privity or concert with them from further acts of infringement of the ‘885 patent, and further acts of unfair competition as aforesaid, including but not limited to an order prohibiting the importation of all infringing high pressure cleaning products into the United States.

4. An accounting for all sales of infringing products by Defendant and its dealers and an award of damages sustained by Plaintiff Vortex as a result of Defendant’s unlawful acts as alleged herein.

5. A Judgment awarding Plaintiff Vortex damages adequate to compensate for its losses, including prejudgment and post judgment interest at the maximum rate permitted by law, Plaintiff's lost profits but not less than damages equal to a reasonable royalty, and enhanced damages up to and including treble the damages based on a determination by the Court that the infringing acts were willful pursuant to 35 USC §284, including pre-issuance royalties pursuant to 35 USC §154(d).

6. A finding that this case is "exceptional" under 35 USC §285 and an award of reasonable attorney fees accordingly; and

7. Such other and further relief as the Court deems just and proper to award.

Respectfully submitted,

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Attorney for Plaintiff

Dated: April 28, 2017

DEMAND FOR JURY TRIAL

Plaintiff Vortex hereby demands a trial by jury as to all issues so triable in this case.

Respectfully submitted,

Young Basile Hanlon & MacFarlane, PC

/s/Thomas N. Young

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